



Docket No.: 3613-0102P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Asa KLING et al.

Application No.: 09/911,733

Confirmation No.: 5601

Filed: July 25, 2001

Art Unit: 2179

For: PRODUCT COST CONTROL GRAPHICAL
USER INTERFACE

Examiner: S. HANNE

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal.

The review is being requested for the reasons set forth on the attached five (5) Sheets.

The Examiner has made clear errors in interpreting and applying the appropriate tests and applying the prior art in rejecting claims 1-2, 4-5, 13-14, and 22 under 35 U.S.C. § 103(a) as being unpatentable over *Jones et al.* (USP 6,516,324) in view of *Kawarizadeh et al.* (USP 6,384,728); rejecting claims 3, 8-12, and 15 under 35 U.S.C. §103(a) as being unpatentable over *Jones et al.* in view of *Kawarizadeh et al.* and further in view of *Cunningham et al.* (USP 6,029,139); rejecting claims claims 6-7 under 35 U.S.C. §103(a) as being unpatentable over *Jones et al.* in view of *Kawarizadeh et al.* and further in view of *Amado* (USP 5,701,400); and rejecting claims 16, 18, 20, 21, and 23 under 35 U.S.C. §103(a) as being unpatentable over *Anderson et al.* (USP 5,974,396) in view of *Kawarizadeh et al.*

The Examiner Fails to Establish *Prima Facie* Obviousness under 35 U.S.C. § 103 by Failing to Provide References that Teach or Suggest All of the Claim Elements

The Examiner has made a clear error in concluding that the combination of the teachings of the cited references teach all of the claim elements.

In support of the Examiner's rejection of claim 1, the Examiner admits that *Jones et al.* fails to teach or suggest a report relating to usage of a plurality of specific incontinence products pertaining to a selected institution and a selected period. The Examiner relies on the teachings of *Kawarizadeh et al.* asserting this reference teaches monitoring incontinence products. The Examiner concludes it would be obvious to combine the teachings of the cited references as one skilled would have been so motivated in order to provide a way to remotely monitor usage of incontinence products as taught by *Kawarizadeh et al.* Applicants disagree *Kawarizadeh et al.* cures the deficiencies of the teachings of *Jones et al.*

Neither of the references, either alone or in combination, teach or suggest one of a plurality of reports containing information relating to usage of a plurality of specific incontinence products. The disclosure of *Kawarizadeh et al.* is directed to a wet garment detector. The reference identifies a problem

of being able to detect wet garments in order to avoid rashes in aged persons and to provide for both comfort and hygiene for patients. Further, the disclosure is directed to providing a system whereby once a wet garment is detected, an attendant is notified to change the garment. There is no teaching or suggestion in *Kawarizadeh et al.* that suggests monitoring the usage of incontinence products. *Kawarizadeh et al.* is not at all concerned with storing information related to the usage of products. *Kawarizadeh et al.* is only concerned with patient's health and comfort. Thus, *Kawarizadeh et al.* fails to cure the deficiencies of the teachings of *Jones et al.* As such, the Examiner has failed to establish *prima facie* obviousness by failing to provide references that teach or suggest all of the claim elements.

**The Examiner has Failed to Establish Prima Facie Obviousness
by Failing to Provide Proper Motivation and the Assertion to Combine Without Proper Motivation
Amounts to Impermissible Hindsight**

The Examiner has made clear error in concluding that one skilled in the art would be motivated to combine the cited references.

In support of the Examiner's rejection of claim 1, the Examiner asserts one skilled in the art would be motivated to combine the teachings of the references in order to provide a way to remotely monitor usage of incontinence products as taught by *Kawarizadeh et al.* Applicants disagree with the Examiner's conclusion.

Kawarizadeh et al. is only concerned with monitoring garments, not monitoring usage of the incontinence products. There is no disclosure in *Kawarizadeh et al.* that is directed to monitoring the usage of incontinence products. As *Kawarizadeh et al.* fails to provide this motivation, as asserted by the Examiner, Applicant maintains that one of ordinary skill would not have been motivated to combine the teachings of *Jones et al.* with the teachings of *Kawarizadeh et al.* since this teaching clearly cannot be discerned from *Kawarizadeh et al.*

Further, there are no teachings, either in the references themselves, or within the knowledge of one skilled in the art to make the purported combination. As such, there is no motivation to make the combination as asserted by the Examiner.

Finally, by asserting it would have been obvious to modify the teachings of *Jones et al.* with the teachings of *Kawarizadeh et al.* with no suggestion or motivation in the applied references or elsewhere to do so, the rejection appears to rely on impermissible hindsight reasoning. As there is no motivation to combine the references, Applicants submit that the Examiner has failed to establish *prima facie* obviousness.

The Examiner has Failed to Cite Analogous Art

The Examiner has made clear error in failing to cite analogous art in the outstanding rejection.

Neither of these references are similar to Applicants' field of endeavor. As indicated in the field of the invention of Applicants' specification, the present invention relates to user interfaces for displaying computer storage database information, and more particularly, to graphical user interfaces providing computer stored database information relating to incontinence products used by specific institutions or groups of institutions. As described within the Detailed Description and the figures, the graphical user interface relating to incontinence products used by specific institutions or groups of institutions are disclosed.

In contrast, the disclosure of *Jones et al.*, as stated in the Field of the Invention, is directed to centralized generation of reports which compile and/or summarize operational data from remotely located user-operated electronic devices, for example, imaging devices used for medical diagnosis.

The disclosure of *Kawarizadeh et al.*, as recited in the Field of the Invention, is directed to a wetness-sensing device for diapers and other undergarments to enable the prompt changing when they become wet. The invention is further related to a reusable device containing a non-capacitive sensor

mounted on the external surface of any type of diaper and a transmitter for relaying the presence of a wetness condition to a remotely monitored station. As such, neither of these references are similar to Applicants' field of endeavor.

Additionally, neither of the references are reasonably pertinent to the particular problem with which the inventor is involved. *Jones et al.* identifies a problem in maintaining diagnostic systems including reports of system performance and feedback on particular incidents requiring attention, updates of system licenses, software, imaging protocols, etc. *Jones et al.* provides a system for providing remote access to scanner utilization or diagnostic imaging reported generated by a computer system having access to a database of collected scanner operational data (Col. 3, lines 24-27).

In contrast, the problem identified in the Background portion of Applicants' specification states that due to conventional closed systems where the manufacturer and the consumer each have autonomous databases, statistical information relating to incontinence products, that may lead to a cost benefit for both the manufacturer and consumer, may be unavailable to the involved parties. The specification notes it would be desirable to provide a graphical user interface that summarizes consumed incontinence product information in a simple, easy to understand and user-friendly format and that it would be desirable to allow a consumer to review consumed incontinence product information relating to specific institutions owned or affiliated with a customer. (Specification, Paras. [0004]-[0005]).

Clearly, the problem to be solved in *Jones et al.* is not reasonably pertinent to the particular problem as set forth in Appellants' invention.

The disclosure of *Kawarizadeh et al.* identifies a problem with personal monitoring devices in that they are expensive and that the design is flawed as the detecting strips that reside in the diaper are configured as integral non-detachable elements of the detector and alarm circuits. Again, the problem of

Kawarizadeh et al. is not reasonably pertinent to the particular problem with which the Appellants are involved.

As neither of the references are within Appellants' field of endeavor and, further, as neither of the references are reasonably pertinent to the particular problem with which the Appellants are involved, the Examiner has cited non-analogous art in support of his rejection.

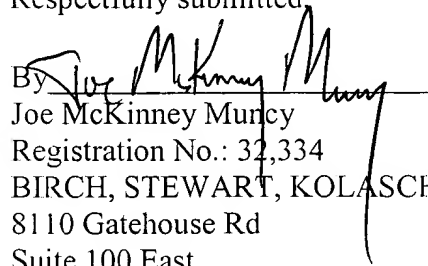
Conclusion

Claims 2-7 are allowable at least based upon their dependency on allowable claim 1. As claims 8, 13, 16, and 23 similarly recite the element discussed above with regard to claim 1, Applicants submit that these claims, together with claims dependent thereon, are also non-obvious over the references as cited. As the Examiner has 1) failed to provide references that teach or suggest all of the claim elements; 2) failed to provide proper motivation to combine the cited references; and 3) failed to cite analogous art, Applicants maintain all of the pending claims are allowable over the art as cited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: November 14, 2005

Respectfully submitted,

By 

Joe McKinney Muncy

Registration No.: 32,334

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant